

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION)
OF VIVINT SOLAR, INC. FOR A) PSC DOCKET NO. 15-1358
DECLARATORY ORDER)
(FILED AUGUST 28, 2015))

ORDER NO. 8800

AND NOW, this 6th day of October, 2015, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, on August 28, 2015, Vivint Solar, Inc. ("Vivint Solar") filed a petition ("Petition") with the Commission which requested a declaratory order clarifying that, in offering solar power purchase agreements or solar leases to residential customers in the State of Delaware, neither Vivint Solar nor any of its subsidiaries or affiliates would be regulated by the Commission as (i) a "public utility" under 26 Del. C. § 201 or (ii) an "electric supplier" under 26 Del. C. § 1012; and

WHEREAS, the Commission believes that soliciting public comments regarding the Petition would be beneficial and in the public interest;

WHEREAS, the Commission also wishes to publicly notice that it will hold evidentiary hearings on this matter;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. The Commission shall conduct an evidentiary hearing on the Petition during its regularly-scheduled meeting on Tuesday, November 24, 2015, beginning at 1:00 p.m. at 861 Silver Lake Boulevard, 1st Floor Hearing Room, Cannon Building, Dover, Delaware 19904.

2. Pursuant to 26 Del. C. §502 and 29 Del. C. ch. 101, the Commission designates Hearing Examiner R. Campbell Hay for the purpose of considering any petitions for intervention that may be filed and any motions for admission *pro hac vice*.

3. The Commission Secretary shall provide public notice of the filing of the Petition, of the Commission's action taken via this Order, and of the date of the evidentiary hearing by publishing notices in the form attached as Exhibit "A" in the legal classified section of The News Journal and the Delaware State News newspapers in two-column format, outlined in black, **on or before October 13, 2015**. Proof of such publication shall be provided to the Commission as soon as practical but not later than the commencement of the evidentiary hearing concerning this matter.

4. The deadline for submitting any written comments regarding the Petition is **before noon on Tuesday, November 10, 2015**.

5. The deadline for filing any petitions for leave to intervene in accordance with the requirements of the Commission's *Rules of Practice and Procedure* (26 Del. Admin. C. §1001-2.9) is **before noon on Tuesday, November 10, 2015**.

6. Any intervenor wishing to oppose the relief requested in the Petition shall file with the Commission, **before noon on Tuesday, November 10, 2015**, written documents pursuant to the Commission's Rules. Copies of such documents must be served on all parties and intervenors via the Commission's Delafile system.

7. Vivint Solar is hereby placed on notice that if the Commission finds that the company qualifies as a "public utility"

under Delaware law, the costs incurred by the Commission staff and the Division of the Public Advocate in connection with this proceeding will be charged to it under the provisions of 26 Del. C. §114(b)(1) .

8. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary

EXHIBIT "A"

PUBLIC NOTICE OF EVIDENTIARY HEARING

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PUBLIC NOTICE OF EVIDENTIARY HEARING

TO: ALL INTERESTED PARTIES

The Delaware Public Service Commission (the “Commission”) will conduct evidentiary hearings in the above-captioned matter on the following date, time, and location:

<u>DATE</u>	<u>TIME</u>	<u>LOCATION</u>
November 24, 2015	Starting at 1:00 p.m.	Public Service Commission Office 861 Silver Lake Boulevard Cannon Building, Suite 100 Dover, DE 19904

On August 28, 2015, Vivint Solar, Inc. (“Vivint Solar”) filed a petition with the Commission and requested a declaratory order clarifying that, in offering solar power purchase agreements or solar leases to residential customers in the State of Delaware, neither Vivint Solar nor any of its subsidiaries or affiliates would be regulated by the Commission as (i) a “public utility” under 26 *Del. C.* §201 or (ii) an “electric supplier” under 26 *Del. C.* §1012.

The Commission is publicly noticing that it will hold an evidentiary hearing on this matter. The Commission will render a decision based upon the record evidence presented to it at the evidentiary hearings. The Commission may grant or deny, in whole or in part, the requested relief.

The deadline for submitting any written comments in this Docket is ***before noon on Tuesday, November 10, 2015***. Please file these written comments via the Commission's online filing and docketing system (DelaFile) located at this website address: <https://delafile.delaware.gov/>. You may also send written comments to the Commission's address (listed above) and note the "attention to" as "PSC Docket No. 15-1358."

If you wish to formally participate as a party in this matter, with the right to present evidence and be represented by counsel, you must file with the Commission ***before noon on Tuesday, November 10, 2015***, a written petition requesting leave to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (26 *Del. Admin. C.* §1001-2.9). All such petitions should be filed via the Commission's DelaFile system located at <https://delafile.delaware.gov/>. Petitions filed after the deadline of Tuesday, November 10, 2015, will not be considered except for good cause shown.

Copies of Vivint Solar's petition and any other later filed documents in this Docket are available for public inspection on the Commission's website and can be found by searching in DelaFile for "Docket No. 15-1358" at this website address: <https://delafile.delaware.gov/>. Copies of Vivint Solar's petition and all other documents in this Docket are also available during normal business hours at the Commission's Dover office at 861 Silver Lake Boulevard, Canon Building, Suite 100, Dover, Delaware 19904. If you would like to review documents at the Commission's Dover office, please contact Ms. Donna Nickerson at donna.nickerson@state.de.us to arrange a time for your review. You may also review copies of the documents in this Docket at the following offices of the Division of the Public Advocate:

Carvel State Office Building,
820 N. French Street, 4th Floor
Wilmington, DE 19801

29 South State Street
Dover, DE 19901

Please call the Wilmington office at (302) 577-5077 or the Dover office at (302) 241-2545 if you wish to arrange for a time to review documents in this docket at the offices of the Division of the Public Advocate.

If you wish to request copies of documents in this matter, please submit a Freedom of Information Act Request Form. This form may be found at this website page: http://delaware.gov/help/foia_request.shtml. There is also information and a link to the Freedom of Information Act Request Form located on the Commission's website here: http://sos.delaware.gov/foia_requests.shtml. The Commission will respond to your request in accordance with the Delaware Freedom of Information Act, 20 *Del. C. ch.* 100.

Any individual with disabilities, who wishes to participate in these proceedings, or to review the filings in this Docket, should contact the Commission to discuss any auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, by writing, by telephone, or otherwise. For telephone inquiries, the Commission's toll free telephone number (in Delaware) is 1-800-282-8574.

Any person with questions regarding this matter may also contact the Commission at (302) 736-7500 and by Text Telephone also at (302) 736-7500. Inquiries can also be sent via the Internet to pamela.knotts@state.de.us.